

**Table1 | Feedback from Receivables Management Association of Canada (RMA)**

Bill 199: *An Act to Amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000*

| Clause   | Feedback/observations  |
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| <p><b>Right of Consumers to request disclosure</b><br/>           Section 12 (1) A consumer may, in writing, request a consumer reporting agency to provide,</p> <ul style="list-style-type: none"> <li>(a) the consumer’s consumer report; or</li> <li>(b) the consumer’s current consumer score and consumer report.</li> </ul>  | <p>RMA poses the question: What is the ministry’s definition of the <i>current consumer score</i>. Bill 199 does not specify, but should in regulation.</p> <p>Given a consumer may have multiple scores on his/her consumer report, which score is applicable? Further, scores may vary over time. The new requirement has the potential to generate ambiguity or confusion.</p>  |
| <p><b>Content of disclosure under cl.(1)(a)</b><br/>           (2) If a consumer makes a request under clause (1) (a), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, disclose to the consumer the following information:</p> <p><b>3. The name and contact information, including the address, telephone number and email address, of every person on whose behalf the file has been accessed within the three-year period preceding the request.</b></p> <p>4. If the agency furnished a consumer report pertaining to the consumer within the one-year period preceding the request,</p> <ul style="list-style-type: none"> <li>i. <b>the names and contact information, including the address, telephone number and email address, of the recipients of that report, and</b></li> <li>ii. a copy of the consumer report if it was furnished in writing or the particulars of the content of the report if it was furnished orally.</li> </ul> | <p><b>Subsections 3, 4i and 5i:</b> Is RMA to understand that the name of every individual employee, including their personal contact information, must be communicated to the credit reporting agency in order to comply with the above-noted sub-clause and, if so, that consumers may be directly contacting employees and agents (including non-customer facing employees and agents)?</p> <p>RMA points out that general information regarding each corporate entity that performs an inquiry to a consumer file exists and, currently, is included in a consumer’s report.</p> |

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| <p>5. If the agency furnished a consumer score, or any other information evaluating the credit or personal information of the consumer within the one-year period preceding the request,</p> <ul style="list-style-type: none"> <li><b>i. the names and contact information, including the address, telephone number and email address, of the recipients of that score or information, and</b></li> <li><b>ii. the score and the particulars of any other information evaluating the credit or personal information of the consumer.</b></li> </ul>   | <p><b>Subsection 5ii:</b> This provision may cause confusion and conflict, particularly in cases whereby a credit grantor may utilize custom scoring using various data elements which may or may not include the credit score in the adjudication of credit.</p> <p>Further, the score (current credit score) by itself cannot be used as an indicator to “evaluate the credit or personal information of the consumer”, as different credit grantors will have conditions and/or risk appetite that will create varying results for the consumer against a similar score.</p> |
| <p><b>Content of disclosure under cl. (1) (a)</b><br/> (2) If a consumer makes a request under clause (1) (a), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, disclose to the consumer the following information:</p> <p>5. If the agency furnished a consumer score, or any other information evaluating the credit or personal information of the consumer within the one-year period preceding the request,</p> <ul style="list-style-type: none"> <li>i. the names and contact information, including the address, telephone number and email address, of the recipients of that score or information, and</li> <li>ii. the score and the particulars of <b>any other information</b> evaluating the credit or personal information of the consumer.</li> </ul> <p>6. <b>Any other information relating to the consumer score that may be prescribed.</b></p> | <p>The bolded references are ambiguous and should be clarified, ideally, specifying what the ministry deems as “or any other information” and “...that may be prescribed.”</p>  |
| <p><b>Content of disclosure under cl. (1) (b)</b><br/> <b>(3)</b> If a consumer makes a request under clause (1) (b), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, generate the consumer’s current consumer score and disclose the following information to the consumer:</p> <ul style="list-style-type: none"> <li>1. The consumer score.</li> <li>2. The date on which the consumer score was generated.</li> <li>3. The range of possible consumer scores under the method used.</li> </ul>   | <p>RMA wonders whether the intent of this proposed change is to provide a consumer with a ‘current’ consumer score? If so which one does the ministry propose be disclosed?</p> <p>RMA has concerns regarding Section 12.3.4. The methodology used by competing Canadian credit scoring agencies is highly proprietary.</p>   |

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|  | <p>4. The factors used by the agency in generating consumer scores under the method used.</p> <p>5. The information listed in subsection (2).</p> <p>6. Any other information that may be prescribed.</p>   | <p>Additionally, the generation of a consumer score is produced by an algorithm that is elaborate and would not provide the average consumer with useful insights. A summary of the attributes used in building a consumer’s credit score is currently available.</p>   |
|  | <p><b>Timing of disclosure</b><br/> <i>(7) The consumer reporting agency shall make disclosures required under this section in accordance with the following rules respecting timing:</i></p> <p><i>1. If a consumer chooses to receive the disclosure in person, by telephone or by mail, the consumer reporting agency shall have the information available or mail the information, as applicable,</i></p> <p><i>i. <b>on or before the prescribed deadline, or</b></i></p> <p><i>ii. if no deadline is prescribed, <b>within a reasonable time</b> in the circumstances after the consumer provides everything required under subsection (5).</i></p> | <p>The bolded terms, ‘on or before the prescribed deadline’ and ‘within a reasonable time’, need to be clarified or defined.</p>  |
|  | <p><b>Trained personnel</b><br/> <i>(10) Every consumer reporting agency shall provide trained personnel to explain to the consumer any information disclosed to him or her under this section.</i></p>   | <p>This requirement will add administrative burden to the credit reporting agency. Should agencies be expected to bear the cost of additional trained personnel?<br/>         Further, RMA suggests that there should be an accepted ‘standard’ explanation, like the one that currently exists, and provided by the reporting agencies.</p>  |
|  | <p><b>Explanation of consumer score</b><br/> <i>(11) If a consumer who received a disclosure under subsection (3) makes a request in accordance with any prescribed requirements to the consumer reporting agency that made the disclosure, the agency shall explain to the consumer how the consumer’s credit or personal information has affected the <b>consumer’s consumer score.</b></i></p>   | <p>Refer to feedback in from Section 12 (1) regarding the ambiguity pertaining to a consumer score.</p> <p>Moreover, there is no single reason for why a consumer receives or is denied credit. An amalgam of information —not the agency or score alone— guides a creditor to a decision. This provision, if enacted, has the potential to be very controversial. This may lead to a reporting agency being looked upon as the reason credit is denied, where in fact the reporting agency is merely a repository for credit grantor information.</p> <p>This requirement will add administrative burden to credit reporting agencies.</p> |

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| <p><b>Fees</b><br/> (12) A consumer reporting agency shall not charge a fee for making a disclosure under this section <b>unless the agency is permitted to do so by the regulations.</b></p>  | <p>RMA questions the absence of guidelines outlining when a fee is permitted to be charged and the level of fee. Further, how does the ministry propose the consumer reporting agency implement the measure and how agencies will communicate with consumers.</p> <p>The benefits of setting a fee for making a disclosure under Section 12 will:</p> <ol style="list-style-type: none"> <li>1. Offset a portion, if not all, of the administrative costs associated with the regulation requirements; and,</li> <li>2. Deter abuse of the process.</li> </ol>  |
| <p><b>Consumer scores</b><br/> 12.0.1 (1) Subject to subsection (2), when generating a consumer score, a prescribed consumer reporting agency shall use the method that is most commonly used by the agency to generate scores. Prescribed method of generating consumer score.<br/> (2) If the regulations prescribe a method of generating a consumer score to be used for a prescribed purpose or in a prescribed circumstance, the consumer reporting agency shall use that method when generating a consumer score for the purpose or in the circumstances, as the case may be.</p> | <p>The industry has no common definition of what constitutes a consumer score. There are a multitude of methods for generating a consumer score and to generate a score that is the ‘one most commonly used by the agency to generate scores’ has no basis.</p> <p>Plus, the methodology for developing a consumer score is highly proprietary.</p> <p>Also, ‘prescribed purpose’ and ‘prescribed circumstance’ need to be clearly defined.</p>   |
| <p><b>Security freeze</b><br/> 12.4 (1) A consumer may, in accordance with this section and any prescribed requirements, require a prescribed consumer reporting agency to place a security freeze on his or her file.</p> <p><b>Placing of security freeze</b><br/> (3) If the consumer has complied with the prescribed requirements and subsection (2), the consumer reporting agency shall place a security freeze on the consumer’s file on or before the prescribed deadline.</p> <p><b>Effect of security freeze</b></p>  | <p><b>Security freeze</b><br/> Clarity is required to define what constitutes a ‘freeze’.</p> <p><b>Placing of security freeze</b><br/> Clarity is required regarding what constitutes ‘prescribed deadline’</p> <p><b>Effect of security freeze</b><br/> RMA has the following question or concerns:</p> <ul style="list-style-type: none"> <li>• What would prevent a consumer from placing a freeze to hide or obfuscate facts about delinquency, bankruptcy, or other events from existing or potential creditors?</li> <li>• How can an existing creditor manage their portfolio with regards to ongoing credit worthiness?</li> </ul> |

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| <p>(4) During the period that a security freeze on a consumer’s file is in effect, the consumer reporting agency shall not disclose any credit or personal information about the consumer maintained by the agency, including any consumer scores, to any person.</p> <p><b>Disclosure despite a security freeze</b></p> <p>(7) Despite subsection (4), the consumer reporting agency may, in accordance with any prescribed requirements, disclose prescribed information about a consumer maintained by the agency to prescribed persons and entities.</p> | <ul style="list-style-type: none"> <li>• When a consumer becomes deceased, files an assignment in bankruptcy, or has liens or judgments against their person, will this still be disclosed under a freeze?</li> <li>• What is the implication of a freeze on a credit grantor, in particular, when not provincially regulated with regards to credit granting, or account maintenance in the case of a freeze? For example, if a credit grantor were to grant credit to a consumer who has a freeze on their credit bureau, what are the implications?</li> <li>• When an existing creditor receives returned mail, or loses contact with a consumer that has placed a freeze on their credit file, how are they expected to be located (i.e., skip trace)? This may mean that the majority of good consumers who forget to update address information with creditors risk having their access to credit frozen without warning.</li> <li>• If a consumer, whose credit file is not frozen, falls victim to identity theft, account takeover, true name fraud, etc., there is a risk that the perpetrator might be able to then freeze the credit file, further complicating the victim’s recovery, as well as law enforcement and creditor investigations.</li> <li>• As credit file information is often used to ‘authenticate’ a consumer prior to a creditor communicating with them regarding their accounts, in the case of a freeze could this mean a consumer may find it difficult to manage their own accounts?</li> <li>• When a creditor has an existing relationship with a consumer and the consumer wishes to alter, amend, or increase the credit facility or otherwise amend the current arrangements, how can a creditor reasonably do so in the face of a freeze, if they cannot properly assess their credit?</li> <li>• As certain data elements with a consumer file may be used, whether with, or without the ‘credit score’ to determine risk of a singular or group of transactions the consumer wishes to make, is there a risk that many consumers might find themselves being declined for purchases as a result?</li> <li>• How does a freeze affect subpoena powers, a government administrative ruling, or enforcement officials needing access to an individual’s credit report?</li> <li>• Also a "freeze" could negatively affect an opportunity for employment since potential employers conduct verifications through the reporting agencies. Hence if a freeze exists then the ability to gain employment could potentially be blocked.</li> </ul> <p><b>Disclosure despite a security freeze</b></p> <ul style="list-style-type: none"> <li>• What constitutes a ‘prescribed person or entity’?</li> <li>• Assuming ‘prescribed person or entities’ allows existing creditors to continue to access a file under security freeze, does that access extend to third parties (such as, but not limited to collections</li> </ul> |
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|  |  | <p>agencies, law firms, marketing organizations, sales organizations) directly employed by the prescribed person or entity?</p> <ul style="list-style-type: none"> <li>• Further, does this supersede existing contracts where a consumer has granted a creditor that access and, if so, does the ministry have the right to do so (particularly in cases where a contract is under federal regulation)?</li> </ul> |
|  | <p><b>Publication of information re alerts and freezes</b><br/>           12.5 Every prescribed consumer reporting agency shall, in accordance with any prescribed requirements, publish the following information on a website maintained by the agency:</p> <ol style="list-style-type: none"> <li>1. A description of alerts and their implications.</li> <li>2. A description of security freezes and their implications.</li> <li>3. Information respecting how a consumer may request an alert or security freeze.</li> <li>4. Information respecting how a consumer may remove an alert and terminate a security freeze.</li> <li>5. Information respecting how a consumer may make directions to disclose to particular persons or entities during a security freeze.</li> <li>6. Any other prescribed information respecting consumer alerts and security freezes.</li> </ol> | <p>Bill 199 proposes that a consumer reporting agency publish the information described in Section 12.5, subsections 1-6 on a website maintained by the agency, but does not indicate what information should/must be included and whether it must be uniform for all consumer reporting agencies.</p>  |

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| <p><b>8 (1) Subsection 14 (1) of the Act is repealed and the following substituted:</b></p> <p><b>Order by Registrar re information</b><br/>         (1.1) The Registrar may order a consumer reporting agency to amend or delete credit and personal information or restrict or prohibit the use of credit and personal information if, (a) the agency failed to comply with an order under subsection (1) with respect to the information; or (b) the agency complied with an order under subsection (1) with respect to the information but, in the Registrar’s opinion, the information is inaccurate, incomplete or does not comply with the provisions of this Act or the regulations.</p>  | <p>In the case of a consumer disputing a specific trade line or reporting, what involvement does/should the reporting party, the credit grantor who supplied the information, have in determining accuracy?</p> <p>For example, if a consumer reporting agency makes an accurate report that is disputed by a consumer then can the consumer reporting agency be compelled to amend or delete the data without the knowledge or involvement of the reporting party?</p> |
| <p><b>Inquiry by Registrar</b><br/>         16.1 (1) For the purposes of ensuring compliance with this Act and the regulations, the Registrar, or a person designated by the Registrar in writing, may inquire into, and direct a consumer reporting agency to provide, within such time as the Registrar or designated person may specify, information about the agency’s practices in connection with any of the requirements in this Act and the regulations. Duty to provide information</p> <p><b>(3) If, after giving the consumer reporting agency an opportunity to be heard, the Registrar determines that a practice of the agency contravenes this Act or the regulations, the Registrar may order the agency to amend or discontinue the practice. Limits on orders</b></p> <p><b>(4) The Registrar may order no more than what is reasonably necessary to achieve compliance with this Act or the regulations.</b></p> | <p>The consumer reporting agency only publishes information obtained or received from credit grantors, and public records (i.e., insolvencies, deaths, and court judgments).</p> <p>RMA wonders why the ministry is not requiring accuracy from these sources? Rather it is placing an unfair burden on reporting agencies.</p>   |